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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,396	12/10/2001	Daniel Kopf	111399	8273

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EXAMINER

NGUYEN, DUNG T

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,396

Applicant(s)

KOPF ET AL.

Examiner

Dung (Michael) T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 14-28 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 and 29-39 is/are withdrawn from consideration.

5) ☐ Claim(s) ____ is/are allowed.

6) ☒ Claim(s) 1-8 and 14-28 is/are rejected.

7) ☒ Claim(s) 1 is/are objected to.

8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 1-8 and 14-28 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that see the election paper. This is not found persuasive because the fields of search for species I, III, IV and V, which are classified in class 372, subclasses 71, 109, 75, and 25, are NOT coextensive. Therefore, the strategies for doing text searching are different and separate searches are required.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claim 1 is objected to because of the following informalities: "an pump beam" should be changed to ---a pump beam ---. Appropriate correction is required.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim 4 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2.

When two claims in an application are duplicates or else are so close in content that they both

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cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 15-16, 18, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lang et al. (6,240,116).

With respect to claims 1-7, 15-16, 18, and 21 Lang et al. show in Fig. 11 a diode pump array 600 with a plurality of emitters 602 held by a mount 25 (Fig. 3) and optical means (1st cylindrical lens 604 positioned by the emitters 602 at a distance corresponding to the focal length of the 1st cylindrical lens 604, and a 1st lens 608 for collimating the partial beam in a horizontal plane and focusing the partial beam the vertical plane and directing it to the spot 612) for producing a pump beam 606 by imaging each single emitter 602 into the same spot 612.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang et al. (6,240,116) in view of Tomassini et al. (4,475,788). Lang et al. disclose all limitations of the claims except for a wedged window. Tomassini et al. teach in Fig. 2 a wedged window 23-24. For the benefit of adjusting the axis of the light beam, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Lang et al. a wedged window as taught by Tomassini et al.

Claims 14, 17, 19-20, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang et al. (6,240,116) in view of Baird et al. (5,317,447).

With respect to claim 14, Lang et al. disclose all limitations of the claims except for a focusing lens. Baird et al. teach in Fig. 1 a focusing lens 72. For the benefit for focusing the light beam, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Lang et al. a focusing lens as taught by Baird et al.

With respect to claims 17, 19-20, and 22-23, Baird et al. show in Fig. 1 a solid state laser medium 16.

Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang et al. (6,240,116) in view of Meissner et al. (5,936,984).

With respect to claim 24, Lang et al. disclose all limitations of the claims except for the laser medium comprising Nd:Vanadate. Meissner et al. teach Nd:Vanadate (col. 5, lines 8-18). For the benefit of selecting the material for the laser medium, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Lang et al. Nd:Vanadate as taught by Meissner et al.

With respect to claims 25-27, Meissner et al. disclose a saturable absorber (col. 6, lines 28-29).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang et al. (6,240,116) in view of Weston et al. (6,122,097). Lang et al. disclose all limitations of the claims except for a single-pass amplifier. Weston et al. teach a single-pass amplifier (claim 35). For the benefit of a diode pump laser, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Lang et al. a single-pass amplifier as taught by Weston et al.

Citation of The Pertinent References

The following US patents are being made of record, even though they were not relied upon in this Office action, for being similar in subject matter, and may be relied upon in any future Office Actions: US 4088964, 6259711, 6263004.

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Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung (Michael) T Nguyen whose telephone number is (703) 305-7159. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-5511 for regular communications and (703) 306-5511 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.

Nguyen (Michael) Dung
July 25, 2003


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